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October 27, 2021

Ms. Jocelyn Boyd
Chief Clerk and Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia SC 29210

Re: Lockhart Power Company Filing Renewable Energy Credit Purchase and Sale Agreement

Dear Ms. Boyd:

Attached for filing on behalf of Lockhart Power Company (“Lockhart”) please find a “Renewable Energy Credit Purchase and Sale Agreement.” Early this year, Lockhart discussed with the SC Office of Regulatory Staff (“ORS”) a proposed tariff to govern the sale and purchase of Renewable Energy Credits (“RECs”) on a nondiscriminatory basis. ORS reviewed the proposed tariff, and ultimately recommended that, in lieu of filing such a tariff, Lockhart should instead file any such agreements with the Commission pursuant to S.C. Code Ann. § 58-27-980 and Reg. 103-303.B. While we understand the statute and regulation to govern rates and charges for furnishing electricity, and we believe the sale of RECs is somewhat different, we are filing the attached contract with the Commission for approval to the extent such approval is required.

The attached agreement is a negotiated contract, and we request that it be protected from public disclosure. The purchase and sale of RECs is voluntary, and a competitive market exists for RECs. We believe the disclosure of specific terms of the agreement, including the identity of the Purchaser, amounts purchased, and price paid, could disadvantage both Lockhart and the Purchaser in future negotiations. For that reason, we have redacted those specific terms on the public version of the agreement. We are filing an unredacted, confidential version of the agreement under seal with the Commission and providing the confidential version to ORS.

In addition to filing this agreement with the Commission for approval, Lockhart has adopted ORS’s other recommendations to register the RECs with the North American Renewables

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Registry™ (“NAR”),¹ and to separately account for the revenues and expenses associated with the sale of RECs. Lockhart is recording the revenues and associated expenses in accordance with FERC accounting guidelines under the balance sheet Account 253, in separate sub-accounts to keep the revenues and expenses separate from other items in that account.

We respectfully request approval of the attached agreement at the Commission’s earliest convenience.

Thank you for your assistance.

Very truly yours,

BURR & FORMAN LLP

/s/ M. John Bowen, Jr.

M. John Bowen, Jr.

MJB/jdc

Enclosure: as stated

cc: Nanette S. Edwards, Esq. (nedwards@ors.sc.gov)
Andrew Bateman, Esq. (abateman@ors.sc.gov)
Carri Grube Lybarker, Esq. (clybarker@scconsumer.gov)
Roger P. Hall, Esq. (rhall@scconsumer.gov)

¹ NAR is web-based platform to create, track, and manage all renewable energy purchases and their associated renewable energy certificates (RECs) across the United States, Canada and Mexico.

RENEWABLE ENERGY CREDIT PURCHASE AND SALE AGREEMENT

THIS RENEWABLE ENERGY CREDIT PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is dated as of December 29th, 2020 (the “**Effective Date**”) and is between [REDACTED] (the “**Buyer**”) and Lockhart Power Company, a South Carolina corporation with its main office at 420 River Street, Lockhart, South Carolina 29364 (the “**Seller**”) (each a “**Party**” and collectively the “**Parties**”). Other terms capitalized herein are defined in Section 2 of this Agreement.

RECITALS

WHEREAS, Buyer desires for Seller to provide certain Product (as defined herein) for and on behalf of Buyer and to deliver, or cause the delivery of, the Product to Buyer, subject to the terms and conditions set forth herein; and

WHEREAS, Seller is willing to purchase and transfer the Product to Buyer in accordance with the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Arrangement.** In accordance with the terms and conditions of this Agreement, Seller agrees to obtain, sell, and Deliver (as defined herein), or cause the Delivery of the Product to Buyer, and Buyer agrees to purchase, pay for, and accept Delivery of the Product from Seller, as set forth herein.
2. **Transaction Terms.**
 - 2.1. “Product” means Renewable Energy Credits.
 - 2.2. “Renewable Energy Credit” or “REC” mean the Environmental Attributes associated with generating one megawatt-hour of energy from renewable resources at the Facility during the Vintage specified in this Agreement.
 - 2.3. “Environmental Attributes” means the environmental benefits associated with using renewable resources to generate power and thereby avoid emissions from conventional generation sources.
 - 2.4. “Vintage” means RECs associated with power generated during either of the calendar years 2021 or 2022.
 - 2.5. “Quantity” means the quantity of Product purchased each month, which shall be equal to the electric power consumed each month by the Buyer’s [REDACTED] facility

located in [REDACTED], rounded up to the nearest megawatt-hour. Estimated volumes per year are between [REDACTED] and [REDACTED] RECs.

2.6. “Contract Price” means [REDACTED]/REC for the calendar year 2021 and [REDACTED]/REC for the calendar year 2022.

2.7. “Deliver” or “Delivery” has the meaning provided in Section 3.

2.8. “Facility” means the Seller’s renewable [REDACTED] facility with a nameplate capacity of approximately [REDACTED] located in [REDACTED]

3. **Delivery.** Lockhart Power will issue a certificate and corresponding invoice each month and deliver the same (“Deliver” or “Delivery”) to [REDACTED] for the offsetting Quantity. REC’s shall be deemed Delivered once the certificate and invoice have been issue to [REDACTED]. In the event that the Facility should fail to generate sufficient RECs to meet the Quantity required in any given month, Seller shall Deliver only such number of RECs as have been generated at the Facility in that month. If the amount of RECs generated in a given month is less than the Quantity for that month (a “shortfall”), Seller shall Deliver additional RECs as needed to make up any such shortfall in the subsequent month, or as soon as possible thereafter through the end of that calendar year. Seller shall not have any responsibility for any shortfall remaining at the end of a calendar year. [REDACTED] shall have the right to audit the certificates and Lockhart’s related tracking processes to ensure RECs have been legitimately generated and are not being used for any other purpose than the agreement and have not been additionally sold to another party.
4. **Payment.** Buyer will pay the Contract Price to Seller on a monthly basis for the RECs that have been Delivered hereunder within thirty (30) calendar days after Buyer’s receipt of the invoice relating thereto, by electronic bank transfer of immediately available funds to an account provided by Seller.
5. **Representations and Warranties.**

5.1. **Mutual Representations and Warranties.** Each Party hereby represents and warrants to the other Party as of the Effective Date and upon each Delivery of the Product hereunder that:

- a. it is duly organized, validly existing, and in good standing under the requirements of law of the jurisdiction of its organization or formation and has all requisite power and authority to execute and enter into this Agreement;
- b. it has all authorizations necessary for it to legally perform its obligations and consummate the transactions contemplated hereunder or will obtain such authorizations in a timely manner prior to the time that performance by such Party becomes due;

- c. the execution, delivery, and performance of this Agreement will not conflict with or violate any law, contract, agreement, or arrangement to which it is a party or by which it is otherwise bound; and
- d. this Agreement constitutes a legal, valid, and binding obligation of such Party enforceable against it in accordance with its terms, and such Party has all rights necessary to perform its obligations to the other Party in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;

5.2. Seller Representations and Warranties. Seller represents and warrants to Buyer as of the date hereof and upon each Delivery that:

- a. The Product Delivered hereunder meets the requirements to be a REC as defined in this Agreement.
- b. The RECs Delivered hereunder shall be free and clear of any liens, taxes, claims, security interests, or other encumbrances;
- c. Seller has not sold or otherwise transferred the RECs to any other person or entity or reported the RECs for its own account; and
- d. Seller has not sold or otherwise transferred or reported for its own account Environmental Attributes associated with the same electrical output from the RECs Delivered hereunder or Environmental Attributes otherwise associated with the RECs Delivered hereunder if such sale or reporting would result in the loss of certification of the RECs Delivered hereunder.

6. Limitation on Warranty. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PARTIES EXPRESSLY DISCLAIM ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY TO THIS AGREEMENT OR ANY SERVICES PERFORMED HEREUNDER.

7. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE TOTAL CUMULATIVE LIABILITY FOR ANY AND ALL CLAIMS OR DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT (WHETHER STATED IN CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW OR EQUITY) AT ANY TIME SHALL NOT EXCEED: (i) WITH RESPECT TO SELLER, THE CONTRACT PRICE PAID TO SELLER UNDER

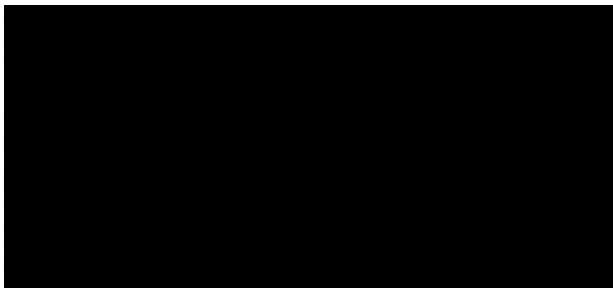
THIS AGREEMENT, AND (ii) WITH RESPECT TO BUYER, THE TOTAL CONTRACT PRICE OWED TO SELLER UNDER THIS AGREEMENT.

8. **Consequential Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE, AND NO PARTY WILL BE REQUIRED TO PAY OR BE LIABLE FOR CONSEQUENTIAL DAMAGES.
9. **Notices.** Notices, unless otherwise specified herein, shall be in writing and delivered by hand delivery, United States mail, overnight courier service or facsimile to the following addresses:

For Seller:

Bryan Stone
 President
 Lockhart Power Company
 P.O. Box 10
 420 River Street
 Lockhart, SC 29364
 Phone: 864-545-2575
 Email: bstone@lockhartpower.com

For Buyer:



10. **General.**

- 10.1. **Entirety.** This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Any prior agreement or negotiation between the Parties with respect to the subject hereof is superseded.
- 10.2. **Drafting.** This Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and not be construed against one Party or the other as a result of the preparation, substitution, organizational membership, submission, or other event of negotiation, drafting, or execution hereof.
- 10.3. **Independence.** Nothing herein constitutes any Party a partner, agent or legal representative of the other Party or creates any fiduciary relationship between them.

- 10.4. Waiver. The waiver by either Party of a default or a breach by the other Party will not operate or be construed to operate as a waiver of any subsequent default or breach.
- 10.5. Severability. If any provision hereof is, for any reason, determined to be invalid, illegal, or unenforceable in any respect, the Parties will negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions that will, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions hereof will, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
- 10.6. No Third-Party Beneficiaries. Nothing in this Agreement is intended to confer benefits, rights, or remedies to any person or entity other than the Parties and their permitted successors and assigns.
- 10.7. Confidentiality. Neither Party will disclose the terms or conditions of this Agreement to a third party (other than the Party's employees, guarantor, lenders, counsel, accountants, agents or advisors who have to know such information and have agreed to keep such terms confidential) except: (a) in order to comply with any applicable law or regulation, or request of any regulatory agency having colorable jurisdiction over the Party and requesting the confidential information in the ordinary course of business; (b) in connection with any court or regulatory proceeding; and (c) to the extent such information is delivered to a third party for the sole purpose of calculating a published index or other published price source; provided, however, each Party will, to the extent practicable, use reasonable efforts to prevent or limit the disclosure.
- 10.8. Governing Law. This Agreement is governed by and construed in accordance with the laws of the state of South Carolina.
- 10.9. Term. The term of this Agreement shall commence on the Effective Date and shall expire on December 31, 2022; provided however, Delivery under this Agreement shall not commence until January 2021.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

[REDACTED]

LOCKHART POWER

By: [REDACTED]
Name: [REDACTED]
Title: [REDACTED]
Date: 12.29.2020

By: Bryan D. Stone
Name: Bryan D. Stone
Title: President
Date: 12/29/20